

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 24

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HERIBERT LORENZ and FRANK KUFNER

Appeal No. 95-1441
Application 08/025,788¹

ON BRIEF

Before WEIFFENBACH, ELLIS and OWENS, **Administrative Patent Judges**.

ELLIS, **Administrative Patent Judge**.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134 of the final rejection of claims 1 through 7 and 9 through 13. Claims 8 and 14 have been withdrawn from consideration by the examiner pursuant to 37 CFR § 1.142(b).

¹ Application for patent filed March 3, 1993.

Claims 1 and 6 are representative of the subject matter on appeal and read as follows:

1. A powdered composition for the bleaching of human hair which comprises:
 - (A) an effective human hair bleaching amount of at least one solid peroxide compound;
 - (B) at least one powdered carrier material; and
 - (C) about 2.5 to 25% by weight, based on the weight of the total composition of at least one member selected from the group consisting of an oil and a liquid wax, said member making said powdered composition dust-free and flowable.
6. A process for the preparation of a powdered composition for the bleaching of human hair which comprises applying a member selected from the group consisting of an oil and a liquid wax, in an amount of about 2.5 to 25% by weight, based on the weight of the total composition, to a powdered composition comprising an effective human hair bleaching amount of at least one solid peroxide compound and at least one powdered carrier material.

The references relied upon by the examiner are:

Fujino et al. (Fujino)	3,951,840	Apr. 20, 1976
Gray	4,522,739	June 11, 1985
Hartmann et al. (Hartmann)	4,844,886	July 4, 1989

The claims stand rejected as follows:

- I. Claims 1 through 5 stand rejected under 35 U.S.C. § 103 as being unpatentable over the appellants' disclosure in view of Hartmann.

II. Claims 6 and 7 stand rejected under 35 U.S.C. § 103 as being unpatentable over Fujino.

III. Claims 1 through 7 and 9 through 13 stand rejected under 35 U.S.C. § 103 as being unpatentable over Gray.

We summarily **reverse** for the reasons set forth in the appellants' Brief (Paper No. 10) and Reply Brief (Paper No. 13). We see no reason to burden the record with further commentary except to remark that, contrary to the examiner's portion, the claims are clearly directed to **powdered** compositions requiring amounts of **solid** peroxide which are effective for bleaching **human** hair. Here, the examiner has failed to explain how the references relied upon would have suggested the claimed **powdered** composition to a person having ordinary skill in the art.

REVERSED

CAMERON WEIFFENBACH)	
Administrative Patent Judge)	
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JOAN ELLIS)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
)	
TERRY J. OWENS)	
Administrative Patent Judge)	

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